

**VIRGINIA BOARD OF NURSING
MINUTES
NOVEMBER 16, 2004**

TIME AND PLACE: The meeting of the Board of Nursing was called to order at 9:00 A.M. on November 16, 2004, in Conference Room 2, Department of Health Professions, 6603 West Broad Street, Richmond, Virginia.

PRESIDING: Janet B. Younger, R.N., P.N.P., Ph.D., President

**BOARD MEMBERS
PRESENT:** Janet B. Younger, R.N., P.N.P., Ph.D., President
Louisa Lief, R.N., M.S. Vice President
Carol E. King, L.P.N., M.S., Secretary
Lynne M. Cooper, Citizen Member
Linda D. Gross, Citizen Member
Brenda L. Hale, R.N.
Woody B. Hanes, R.N., M.S.N., F.N.P.
Louise D. Hartz, Citizen Member
Gregory J. Huber, R.N., M.S.N.
Judith E. Piersall, R.N., B.S.N.
Brenda L. Spady, L.P.N.
JoAnn Tillett, R.N.

**BOARD MEMBER
ABSENT:** Julia C. Semple, L.P.N.

STAFF PRESENT: Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director
Jodi P. Power, R.N., J.D., Deputy Executive Director, Nurse Aide Registry Manager
Jessica Ressler, R.N.C., M.S.N., Nursing Education Consultant
Susan Bell Rosen, R.N., F.N.P., J.D., Deputy Executive Director, Discipline
Paula B. Saxby, R.N., Ph.D., Deputy Executive Director, Education
Amy Davis, Administrative Assistant

OTHERS PRESENT: Robert A. Nebiker, Director, Department of Health Professions
Elaine Yeatts, Regulatory Analyst, Department of Health Professions
Howard M. Casway, Senior Assistant Attorney General

**ESTABLISHMENT OF
A QUORUM:** With twelve members of the Board present, a quorum was established.

- Appointment of new Board Member – Brenda L. Hale, RN from Roanoke, Virginia
- Next meeting of the Committee of the Joint Boards of Nursing and Medicine – December 15, 2004
- Ann Hardy, RN Case Manager – transferred to Enforcement Division, Department of Health Professions effective 10/12/04

- Donna Whitney, Intervention Program Manager will retire December 2004

DIALOGUE WITH
AGENCY DIRECTOR:

Mr. Nebiker led discussions on the following issues:

- Prescription Monitoring conference was discussed, legislation will be introduced to expand the prescription drug monitoring program
- Caseload for 2004 has increased, Mr. Nebiker urged the Board to delegate to agency subordinate.

ORDERING OF AGENDA: The agenda was reviewed and ordered.

CONSENT AGENDA: The Board removed one item from the proposed consent agenda and adopted a motion by Ms. Hartz to accept the consent agenda which includes:

Minutes:

September 22, 2004 – Dr. Younger

September 22, 2004 – Ms. Lief

September 23, 2004 – Ms. Lief

October 29, 2004 – Telephone Conference Call

September 21, 2004 – Ad Hoc Committee – Nursing Education Regulations

October 20, 2004 - Committee of the Joint Boards of Nursing and Medicine

Reports:

Finance Report

Board of Nursing Monthly Tracking Log-Licensure & Disciplinary Statistics

Successful Completion of Health Practitioners Intervention Program

Examinations: NNAAP, NCLEX

Health Practitioners Intervention Program

REPORTS:

Nurse Licensure Compact:

Ms. Douglas reported on the following issues:

- 500 record test file has been sent to NCSBN for NURSUS
- Information on approximately 18,000 old records that are missing information is being entered into L2000
- HIPDB information is being sent to NCSBN and will be back loaded into NURSUS
- Declaration of address form mailed to 11,000 license holders with an address in other compact states and post office box addresses and also mailed to 100,000 licensed holders with a Virginia address
- Influx of negative feedback from licensees residing in compact states other than Virginia is being received. Nature of calls include requesting of refund of Virginia license renewal fees; reside outside of Virginia and do not meet licensure requirements in state of residence; Virginia license has restrictions and licensee is having difficulty getting licensed in state of residence
- December 6, 2004 Compact Administrators meeting and workshop in Washington D.C. will include how to handle “outlier” licensure issues that may require a Virginia single state license

- Discussion of those licensed in Virginia as a nurse practitioner whose primary state of residence is another compact state will have a registered nurse license in the primary state and a nurse practitioner license in Virginia. Discussed timeframe of posting a notice of investigation to NURSUS
- Draft language is being reviewed to add to HPIP orders and probation orders
- HPIP monitoring will be the responsibility of the state HPIP participants are licensed in per Nurse Licensure Compact policy

Following discussion, the Board considered the issue of refund of fees and did not take any action to change the current refund policy for situations related to the Compact. Ms. Douglas proposed that a license should be reactivated without a fee if an individual moves back to Virginia from a compact state within their renewal cycle. The Board agreed with this proposal.

Ms. Tillett moved to have the nurse practitioner license marked with “Valid in Virginia Only”.

The motion was seconded and carried unanimously.

NCSBN Advanced Practice Task Force:

Dr. Younger reported the task force met in November and discussed the topic of advance practice compact licensure. NCSBN is recommending to states to create uniformity of licensure requirements. Broad categories of licensure are recommended. Virginia’s method of licensure addresses this issue. Prescriptive Authority for Clinical Nurse Specialists in other state has caused problems when APRN compact goes into effect will be able to opt out of categories included in the compact.

Ad Hoc Committee Nursing Education Faculty Requirements Regulations:

Dr. Younger reported the representatives from nursing education programs were in a learning mode at the meeting and they were requested to provide written statement of their organizations position on the proposed regulations. The statements will be reviewed in January 2005.

OTHER MATTERS:

Implementation of On-line Renewal for Certified Nurse Aides:

Ms. Douglas led the discussion regarding current requirement of the signature verifying nursing related employment. Options to obtain this information are being reviewed. Ms. Lief moved to proceed with on-line renewal for certified nurse aides to include an attestation of performance of nursing related duties for compensation during the preceding two years. The motion was seconded and carried unanimously.

Dr. Younger left the meeting, the meeting continued with Ms. Lief presiding.

Certified Nurse Aide Funding:

Mark Monson presented information to the Board regarding the history of funding for the nurse aide program and discussed the options for continued funding that include to reduce expenditures, increase fees and a request for supplemental funding from the General Fund. Budget projections for Nursing and Nurse Aide through fiscal year 2010 were reviewed.

Ms. Tillett presented recommendations from the Ad Hoc Committee that met November 9, 2004.

Ms. Tillett moved to propose combining Nursing and Nurse Aide funds and to increase nurse aide renewal to \$50.00 per biennium effective January 1, 2006. The motion was seconded and carried unanimously.

RECESS: The Board recessed at 11:20 A.M.

RECONVENTION: The Board reconvened at 11:35 A.M.

REPORTS (continued)

Board of Health Profession:

Ms. Cooper reviewed the minutes from the meeting on October 21, 2004. The report as accepted as information.

Executive Director Report:

Ms. Douglas reported the Virginia Organization of Nurse Executives meeting in Roanoke was cancelled. Another presentation of the Nurse Licensure Compact has been scheduled in Richmond for December 3, 2004 1:00 p.m. to 3:30 p.m. at the Department of Health Professions. So far 35 people have responded affirmatively regarding attending.

Information from the NCSBN Policy Call included Kentucky and Massachusetts have proposed legislation to join the Nurse Licensure Compact in 2006. New York is proposing to require a BS in nursing as entry level into practice.

Staff issues discussed include the Discipline Case Manager position has been advertised and a part-time (P-14) with Compact duties position will be filled soon.

OTHER MATTERS
(continued):

Nurse Aide Testing:

Dr. Saxby discussed effective November 22, 2004 Promissor has contracted the Red Cross of Pennsylvania to be the test contractor in Virginia instead of ONTS.

Health Practitioners Intervention Program:

Ms. Douglas reported Dr. Younger, Ms. Cooper and Board staff met with Health Practitioners Intervention Program staff on October 29, 2004. The report was accepted as information.

Posting of NCLEX Pass Rates:

Dr. Saxby requested authorization from the Board to post the pass rates of nursing education programs for the past five years on the website.

Ms. Hartz moved that the Board approve posting the NCLEX pass rates of nursing education programs on the website.

The motion was seconded and carried unanimously.

Continued Faculty Exception:

Ms. Ressler presented the exception submitted by Southside Virginia Community College for approval of the Board. Ms. Ressler reported the request meets the regulation.

Ms. Hartz moved that the Board approve the request for continuing faculty exemption.

The motion was seconded and carried unanimously.

Scheduling of Informal Conferences by Agency Subordinate:

Ms. Douglas reported the expected date of implementation is February 2005. Ms. Douglas recommended applicant cases and non-compliant probation cases be the first to be heard to the agency subordinate. Administrative Proceeding Division is currently revising notice and order language to reflect the new process.

2005 Legislative Issues:

Governors Work Group on Rural Obstetric Care:

Ms. Yeatts reported 27 recommendations were made and reviewed the recommendations that would have an impact on Board of Nursing regulations.

Draft Legislation HHR-DSS-01 Regarding Medication Aides:

Ms. Yeatts reviewed the draft legislation proposing the Board of Nursing regulate medication aides.

Lead Study:

Ms. Yeatts and Ms. Rosen attended a meeting and discussed SR-43 regarding screening, testing and treatment by EPSDT program.

NCLEX Exam:

Dr. Saxby presented information regarding licensees that need to re-take the NCLEX exam, and requested the Board grant authority to the Executive Director to deem these licensees eligible to take the NCLEX.

Ms. Hartz moved that the Board grant authority to the Executive Director to deem eligible those that are already licensed and need to take the NCLEX.

The motion was seconded and carried unanimously.

NCSBN On-line Nurse Practice Act Course:

Mr. Huber reported that the final draft on the course has been submitted for staff review and Board counsel approval.

Open Forum:

No one was present for discussion for the open forum.

Selection of a Nominating Committee:

Ms. Lief announced the Nominating Committee will consist of Ms. Hartz as chairperson, Ms. Cooper and Ms. Tillett.

REGULATIONS:

**Recommendations on Proposed Regulations Governing Nurse Practitioners
18 VAC 90-30:**

Ms. Hartz moved to adopt final regulations and to approve the Boards response as presented.

The motion was seconded and carried unanimously.

**Adoption of Proposed Regulations – Board of Nursing Agency Subordinate
18 VAC 90-15-10 et. seq.:**

Ms. Hale moved to adopt the proposed regulations for delegation to an agency subordinate to implement provisions of HB 577 of the 2004 General Assembly. The motion was seconded and carried unanimously.

Board Action – Proposed Fast Track Regulation 18 VAC 90-25:

Ms. Hartz moved to re-adopt proposed regulations to move requirements related to Advanced Certified Nurse Aides and identification/notification from Chapter 20 to Chapter 25, Regulations Governing Certified Nurse Aides and to promulgate the amendments under fast track regulations. The motion was seconded and carried unanimously.

Response to Petition for Rulemaking 18 VAC 90-50-40 (Certified Massage Therapists):

Ms. Yeatts presented the information and the Board decided the issue will be brought to the Ad Hoc Massage Therapy Committee.

Chart of Regulatory Actions:

The report was accepted as information.

EDUCATION
PROGRAMS:

Education Special Conference Committee:

The Board considered the recommendations of the Education Special Conference Committee from its meeting on November 16, 2004.

Ms. Tillett moved that the Board of Nursing adopt the recommendations. The motion was seconded and carried unanimously.

CASE ADJUDICATION:

Consent Orders:

CLOSED SESSION:

Ms. King moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(28) of the *Code of Virginia* at 1:40 P.M. for the purpose of consideration and discussion of consent orders. Additionally, Ms. King moved that Ms. Douglas, Ms. Power, Dr. Saxby, Ms. Rosen, Ms. Ressler, Mr. Casway and Ms. Davis attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations.

The motion was seconded and carried unanimously.

RECONVENTION:

The Board reconvened in open session at 1:45 P.M.

Ms. King moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.

The motion was seconded and carried unanimously.

Alma J. Goff, L.P.N. 0002-060396

Ms. Tillett moved to accept the Consent Order for the surrender and indefinite suspension of Ms. Goff's license to practice as a practical nurse until such time

as she can appear before the Board and provide evidence that she is safe and competent to practice.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Le'Esta D. Edwards-Lee, L.P.N. 0002-044419

Ms. Hartz moved to accept the Consent Order for the voluntary surrender and indefinite suspension of Ms. Edwards-Lee's right to renew her practical nurse license.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Mona D. Mutter, R.N. 0001-127136

Ms. Tillett moved to accept the Consent Order for indefinite suspension of Ms. Mutter's registered nurse license until such time as she can appear before the Board and provide evidence that she is safe and competent to practice.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

Susan Woods, L.P.N. 0002-048007

Ms. Tillett moved to accept the Consent Order for indefinite suspension of Ms. Woods's practical nurse license for a period of not less than two years.

The motion was seconded and carried unanimously.

This Consent Order shall be effective upon entry by the Board stating the findings, conclusions and decisions.

ADJOURNMENT:

The meeting was adjourned at 1:35 P.M.

Jay P. Douglas, R.N., M.S.M., C.S.A.C.
Executive Director